

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

JOSE HILARIO FORTUNA SOLIS

v.

FARMON S. SADRIEV AND
BEKZOD TRUCKING, INC.

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CIVIL ACTION NO. _____

JURY REQUESTED

DEFENDANT BEKZOD TRUCKING, INC.'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C §§ 1332(a), 1441, and 1446, Defendant BEKZOD TRUCKING, INC., hereby gives notice of the removal of this cause of action to the United States District Court for the Eastern District of Texas, Lufkin Division. Defendant Bekzod Trucking, Inc. states as grounds for removal the following:

PROCEDURAL STATUS OF THE CASE

1. Plaintiff Jose Hilario Fortuna Solis filed this action in the 159th Judicial District Court at Law of Angelina County, Texas on September 15, 2017. It carries the case style of *Cause No. CV-00639-17-09; Jose Hilario Fortuna Solis v Farmon S. Sadriev and Bekzod Trucking, Inc.; In the 159th Judicial District Court of Angelina County, Texas*. No citation has been served to Defendant Bekzod Trucking as of the filing of this Notice of Removal, and as such this Notice is not being filed more than 30 days from receipt of any Petition.

2. All pleadings, process, orders, and other filings in the state court action accompany this notice. See 28 U.S.C. § 1446(a); E.D. Tex. Loc. R. CV-81.

3. This Notice of Removal is being filed in the record office of the Clerk of the United States District Court for the Eastern District of Texas, Lufkin Division.

4. Defendant will promptly file a copy of this Notice of Removal with the Angelina County, Texas, County Clerk.

BACKGROUND

5. This case arises out of a motor vehicle accident alleged to have occurred in Texas on May 18, 2017. Plaintiff Jose Hilario Fortuna Solis claims he suffered personal injuries as a result of the alleged negligence of Defendant Farmon S. Sadriev.

6. As alleged in Plaintiff's Petition, Plaintiff Jose Hilario Fortuna Solis is a resident of Reynosa, Tamaulipas, Mexico and is a citizen of Mexico.

7. Plaintiff alleges Defendant, Farmon S. Sadriev, currently resides in Broward County, Florida and is a citizen of the State of Florida.

8. Defendant Bekzod Trucking, Inc. is a corporation organized in and with its principal place of business located in the State of Illinois.

BASIS FOR ORIGINAL FEDERAL COURT JURISDICTION

9. Plaintiff Jose Hilario Fortuna Solis demands judgment in an amount exceeding \$75,000¹ and Plaintiff is a citizen of subject of a foreign state who is not a permanent resident of the United States while Defendants are residents of a State. The district courts therefore have original jurisdiction of this matter according to 28 U.S.C § 1332(a).

PROPRIETY OF REMOVAL

10. This Notice of Removal is timely because it is filed before the expiration of (30) days following receipt of Plaintiff's Original Petition, which Defendant has not received, in accordance with 28 U.S.C § 1446(b).

¹ See Exhibit C, Plaintiff's Original Petition.

11. On information and belief, no other defendant has been served with citation so consent to removal is unnecessary. 28 U.S.C. § 1446(b)(2)(A).

12. This court has original jurisdiction of this matter under 28 U.S.C § 1332(a).

13. Except as otherwise expressly provided by an Act of Congress, any civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the venue where the state court action was pending. See 28 U.S.C § 1446(a). The state court action that is the subject of this notice of removal is pending in Angelina County, Texas, which is found in the Eastern District of Texas, Lufkin Division. Therefore, venue of this removed action is proper in this Court and Division.

14. Removal is not barred by 28 U.S.C. § 1445. Neither Defendant is a citizen of the State of Texas, so removal is not prohibited by 28 U.S.C. § 1441(b).

15. Pursuant to 28 U.S.C § 1446(a) and Local Rule CV-81, Defendant Bekzod Trucking, Inc. has attached hereto:

- (1) A list of all parties in the case, their party type, and the current status of the removed case;
- (2) A civil cover sheet and will supplement a certified copy of the state court docket sheet; a copy of all pleadings that assert causes of action;
- (3) A complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number, and part or parties represented by him or her;
- (4) A record of which parties have requested trial by jury; and
- (5) The name and address of the Court from which the case is being removed;

REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

16. If Plaintiff Jose Hilario Fortuna Solis contests this removal, Defendant requests:

- a. A hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter;
- b. The opportunity to present evidence demonstrating the existence of federal jurisdiction and the propriety of removal; and
- c. Leave to conduct limited discovery related to those issues.

JURY DEMAND

17. Defendant demands a jury trial.

WHEREFORE, PREMISES CONSIDERED, Bekzod Trucking, Inc. removes the above captioned action from the 159th District Court of Angelina County, Texas to the United States District Court for the Eastern District of Texas, Lufkin Division.

Respectfully submitted,

THE FUENTES FIRM, P.C.

/s/Robert Fuentes

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ATTORNEY FOR DEFENDANT

BEKZOD TRUCKING, INC.

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per S. Dist. Tex. Loc. R. LR5.1. A true and correct copy of the foregoing Defendants' Notice of Removal was served upon counsel of record in compliance with the Federal Rules of Civil Procedure by certified mail, return receipt requested, telephonic communications, hand delivery and/or U.S. Mail on this 29th day of January 2018.

/s/ *David Helmey*
DAVID HELMEY